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S.C. SUPREME COURT

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June 29, 2026

VIA U.S. MAIL

The Hon. Patricia A. Howard
Clerk of Court
South Carolina Supreme Court
1231 Gervais Street
Columbia, SC 29201

Re: C.A. No. 2023-CP-40-01759

Dear Ms. Howard,

We represent Certain Underwriters at Lloyd's, London and certain London market insurance companies ("CLMI")¹ in the chapter 15 proceeding *In re Asbestos Corporation Limited*, Case No. 25-10934 (MG), in the United States Bankruptcy Court for the Southern District of New York ("Bankruptcy Court"). CLMI are insurers that subscribed severally (not jointly) to certain excess liability insurance policies for which Asbestos Corporation Limited ("ACL") was an additional insured. The Amended Tenth Report and Eleventh Report (the "Reports") submitted by the Presiding Circuit Court Judge to this Court on April 21, 2026 and May 20, 2026, respectively, include statements regarding ACL's chapter 15 proceedings. As counsel for CLMI in those proceedings, we write to offer additional information for the Court's consideration on certain points addressed in the Reports.²

- The Reports state that plaintiffs' counsel in the *Berley* and *Jenkins* proceedings were not promptly informed of ACL's bankruptcy proceedings. See Amended Tenth Report (stating that only "much later [the bankruptcy] was revealed"), Eleventh Report (stating that the

¹ Certain London market insurance companies consist of: The Scottish Lion Insurance Company Ltd.; Tenecom Ltd. (as successor to Winterthur Swiss Insurance Company formerly known as Accident & Casualty Insurance Company of Winterthur, Switzerland), Yasuda Fire and Marine Insurance Company (UK) Limited and now known as Tenecom Ltd; The Ocean Marine Insurance Company Limited (as successor to liabilities of Commercial Union Assurance Company Limited, The Edinburgh Assurance Company, The Indemnity Marine Assurance Company Limited, The Northern Assurance Company Limited, The Road Transport & General Insurance Company Limited, United Scottish Insurance Company Limited, and The Victoria Insurance Company Limited); and NRG Victory Reinsurance Limited as successor to liabilities of New London Reinsurance Company Limited.

² This letter does not attempt to address all points in the Reports with which CLMI disagrees and does not reflect CLMI's assent to such statements or waiver of any rights with respect thereto.

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bankruptcy was “undisclosed to plaintiff’s counsel”). As reflected in Exhibit 1 attached hereto, plaintiffs’ counsel in the *Berley* and *Jenkins* proceedings, along with counsel for plaintiffs in the approximately 6,000 other pending actions against ACL, and counsel for ACL’s court-appointed receiver, were served notice of ACL’s bankruptcy proceedings within two days of their commencement.

- The Amended Tenth Report states that “Resolute Claims, a claims manager for certain insurance assets of Defendant ACL and CLMI (Certain London Market Insurers) . . . attended the [*Berley*] mediation.” In fact, neither CLMI nor its third party claims administrator, Resolute Management Inc., attended or were informed of the *Berley* mediation, and were not informed of the settlement until approximately nine months later.
- The Eleventh Report states that the Bankruptcy Court “withdrew any objection” to the Circuit Court ordering distribution of the *Berley* settlement funds. In its April 29, 2026 Order Restating and Enforcing the Bankruptcy Stay as to the *Berley* and *Jenkins* proceedings, the Bankruptcy Court ordered that steps to approve disbursement of the *Berley* settlement funds could occur only upon and with the written consent of CLMI and the foreign representative of ACL in the chapter 15 proceedings, or further order of the Bankruptcy Court. Ex. 2. Both CLMI and ACL’s foreign representative provided such consent, following which an agreed proposed order permitting such disbursement was submitted to and entered by the Circuit Court. CLMI’s settlement payment in *Berley* is in addition to the over \$90 million in defense and indemnity costs that CLMI has paid with respect to asbestos claims against ACL.
- The Eleventh Report states that CLMI “went so far as to attempt on two occasions to have the New York United States Bankruptcy Court . . . issue orders prohibiting my Court under pain of sanction from conducting hearings regarding distribution of the *Berley* funds.” It is correct that CLMI twice sought and obtained relief from the Bankruptcy Court with respect to the Circuit Court’s post-bankruptcy actions in the *Berley* and *Jenkins* proceedings as to ACL. However, as noted above, the Bankruptcy Court’s April 29, 2026 Order Restating and Enforcing the Bankruptcy Stay permitted steps to distribute the *Berley* settlement funds upon the written consent of CLMI and ACL’s foreign representative. The second order entered by the Bankruptcy Court, which is not described in the Eleventh Report, was in response to the Circuit Court’s notice of an evidentiary hearing in the *Berley* and *Jenkins* proceedings in violation of the bankruptcy stay. The Bankruptcy Court entered an Order Enforcing the Bankruptcy Stay on May 11, 2026 declaring the Circuit Court’s hearing notices void as in violation of the bankruptcy stay, and barring CLMI, its counsel and its employees from attending any such hearing. Ex. 3. The Circuit Court nonetheless held a hearing on May 12, 2026 in the *Berley* and *Jenkins* proceedings.

Respectfully submitted,

/s/ Alan Turner

Alan Turner

cc: Joshua D. Cagle
Clayton L. Thompson
(Counsel for the *Berley* and *Jenkins* plaintiffs)

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